IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.673 OF 2003

The State of Maharashtra .. Appellant.
Vs.
Chandrakant Baburao
Dhekar & Others .. Respondents.

Mr.A.S.Shitole A.P.P. for the State.

CORAM : D.B.BHOSALE, J.

DATED : 17TH JULY, 2006

P.C.:

. Heard learned A.P.P. for the State.

2. This appeal is directed against the judgment and order dated 30.11.2002 passed by J.M.F.C. 1st Court, Kalyan acquitting all the accused of the offence punishable under section 223 read with 34 of I.P.C. All the three respondent-accused were charged and tried of the offence under section 223 of I.P.C. on the allegations that on 20.9.1997 at 2.00 p.m. from the campus of the Court at Kalyan the accused, who were to keep in confinement/custody of the undertrial prisoners - Mansingh Shivare and Atiraj Naidu, negligently sufferred their escape from custody. The trial Court on appreciation of the evidence on record has observed that it is not clear from the evidence on

record that the accused in particular were to keep in custody the said undertrial prisoners, who allegedly escaped from their custody. From the evidence of the witnesses, it appears that it was a responsibility of all the police staff who were carrying several undertrial prisoners at the relevant time. The prosecution has not placed any document on record to show that the respondent-accused in particular were handed over the custody of the said undertrial prisoners. It appears that both the undertrial prisoners were properly handcuffed. The prosecution has failed to examined the Investigating Officer, who could have thrown light on the specific role assigned to the present accused. Considering the overall facts and circumstances of the case and the findings recorded by the courts below on appreciation of the material on record the impugned judgment cannot be said to be unreasonable and perverse. The view taken by the trial Court is reasonably possible view which need not be interfered with in the appeal against the judgment and order of acquittal. In the circumstances this appeal is dismissed.

(D.B.Bhosale, J.)